

Healthcare and Medical Liability Reform Committee

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HEALTHCARE AND MEDICAL LIABILITY REFORM COMMITTEE

LEGISLATION ENACTED

Arizona state hospital; fingerprinting requirements (S.B. 1025) – Chapter 177

Requires Arizona State Hospital (State Hospital) employees or volunteers, including employees or volunteers at the Arizona Community Protection and Treatment Center, to have a valid Level I fingerprint clearance card (card) issued by the Department of Public Safety or to apply for a card within seven working days after beginning employment or volunteer services. Requires the employee or volunteer to certify that he or she is not awaiting trial on, has never been convicted of, or has never admitted in open court or pursuant to a plea agreement to committing a precluding offense. Specifies the certification is made on forms provided by the Department of Health Services and the forms must be notarized. Prohibits the State Hospital from allowing a person to be employed or volunteer at the State Hospital if the person has been denied a card or has not received an interim approval from the Board of Fingerprinting.

~~dental hygienists; supervision~~ (NOW: physician assistants; prescribing authority) (S.B. 1030) – Chapter 178

Requires the Arizona Regulatory Board of Physician Assistants (Board) to certify qualified physician assistants (PAs) for 30-day, rather than 14-day, prescription privileges for Schedule II and Schedule III controlled substances. Requires the Board to consider all records of delegated 14-day prescription authority that are in effect before the effective date to reflect the new 30-day prescription authority, unless the PA's supervising physician withdraws the delegation. Prohibits a PA from prescribing medication that is intended to perform or induce an abortion.

mammographic images; physician requirements (S.B. 1032) – Chapter 97

Aligns the education and training requirements of licensed physicians who interpret mammographic images with the federal requirements established by the Mammography Quality Standards Act (MQSA). Requires interpreting physicians to meet the MQSA standards and eliminates requirements that do not meet the standards of the MQSA regulations. Eliminates the authority of the Arizona Medical Board and the Arizona Board of Osteopathic Examiners in Medicine and Surgery to approve the qualifications of interpreting physicians.

optometry board; omnibus (S.B. 1033) – Chapter 179

Allows a licensed optometrist to prescribe, dispense and administer oral nonsteroidal anti-inflammatory agents (NSAIDs) in dosages of prescription strength. Limits an optometrist's NSAID prescribing authority to 14 days for any one patient for each occurrence. Prohibits an optometrist from prescribing NSAIDs to a person who is under six years of age.

Increases the number of optometrist members of the state Board of Optometry (Board) from four to five, thereby increasing the total number of Board members from six to seven. Permits current Board members to continue to serve until the expiration of their normal terms.

Allows an applicant for licensure to submit an application and fee to the Board within 30 days preceding the licensure examination. If the applicant does not pay a license issuance fee within 60 days after taking the examination, the applicant is required to submit a new application and all applicable fees to the Board. Clarifies the Board may issue licensure by endorsement to a qualified applicant who has been actively engaged in the practice of optometry in a branch of the United States military.

chiropractic board; omnibus (S.B. 1037) – Chapter 59

Requires the state Board of Chiropractic Examiners (Board) to adopt rules, beginning July 1, 2012, to prescribe continuing education requirements. Defines an *advisory letter* as a nondisciplinary letter relating to activity or a violation by the licensee that does not require disciplinary action, and specifies the information the letter may contain. Extends the period in which an inactive licensee may apply to the Board for reinstatement to active licensure, from one year to two years after the date the Board issues a notice of inactive status. Eliminates the Board's capacity to determine if the credentials of an applicant's chiropractic college are equivalent to recognized national accreditation standards. Eliminates the Board's use of restricted permits.

assisted living caregivers; regulation (S.B. 1038) – Chapter 141

Transfers the requirements and authority to regulate training programs for assisted living facility managers and caregivers from the Department of Health Services (DHS) and the state Board for Private Postsecondary Education to the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers. Specifies an *assisted living facility training program* includes training required for certification as an assisted living facility manager or training required by DHS for an assisted living facility caregiver.

Requires an applicant for assisted living facility manager certification to complete an approved training program and pass an examination in specified subject areas.

medical student loans; board; continuation (S.B. 1042) – Chapter 16

Retroactive to July 1, 2011, the Board of Medical Student Loans is continued until July 1, 2017.

nursing care administrators; continuation (S.B. 1043) – Chapter 17

Retroactive to July 1, 2011, the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers is continued until July 1, 2021.

podiatry board; continuation (S.B. 1044) – Chapter 60

Retroactive to July 1, 2011, the state Board of Podiatry Examiners is continued until July 1, 2021.

county medical examiner; identification protocol (S.B. 1118) – Chapter 181

Requires a county medical examiner to conduct an identification meeting within 48 hours, excluding weekends and legal holidays, after receiving a written or electronic notification request for

the meeting from an immediate family member of a decedent whose remains are in the county medical examiner's possession. Defines *identification meeting* as an examination of photographs or videos of the decedent, any distinguishing marks of the dead body, or any information that may assist the immediate family in making identification.

Allows the county medical examiner to limit or delay the identification meeting if, in the examiner's professional opinion, there would be a loss of forensic evidence or the decedent's body cannot be reasonably recognized. Specifies the legislation does not limit, otherwise restrict or affect the medical examiner's professional judgment or discretion to determine the nature and extent of any death investigation or positive identification. Requires the county medical examiner to provide information on the county website addressing how to make a notification request for an identification meeting.

Provides immunity from civil liability to the county medical examiner, the medical examiner's employees, agents, contractors and other representatives and the county for any injuries or damages allegedly suffered as a result of the identification meeting by immediate family members or another third party.

naturopathic medicine; nutrients (S.B. 1119) – Chapter 182

Expands the scope of practice of licensed naturopathic physicians by allowing them to administer nutrients intravenously. Defines *nutrient*. Requires the Board of Pharmacy to adopt rules for the safe administration of intravenous nutrients. Requires the rules to identify and exclude substances that are not suitable for intravenous administration.

chiropractic services; business entities (S.B. 1120) – Chapter 183

Requires business entities that offer chiropractic services to register with the state Board of Chiropractic Examiners (Board). Establishes requirements for initial registration, registration renewal and payment of registration fees. Requires a business entity to notify the Board within 30 days of any change to the entity's name or contact information, its officers, or the name of any authorized chiropractor who provides or supervises services in any facility. Requires the Board to impose a civil penalty on a business entity that fails to notify the Board of these changes. Specifies civil penalties are deposited in the state General Fund.

Requires a business entity to comply with applicable statutory requirements and Board rules, and permits the Board to administer discipline to registered business entities that commit violations. Requires a business entity to notify the Board within 30 days after the entity dissolves or a facility closes or relocates. The business entity must also report the procedure by which patients may obtain their records. Specifies the legislation does not apply to a health professional who is not a licensed chiropractor but who acts within their scope of practice.

~~maternal mortality; review team~~ (NOW: review team; maternal mortality) (S.B. 1121) – Chapter 143

Requires the Department of Health Services (DHS) Child Fatality Review state team to evaluate the incidence and causes of maternal fatalities associated with pregnancy in Arizona. Requires DHS to provide the state or local child fatality review teams with access to information and records of maternal fatalities. Further requires the DHS Director to apply to the superior court for a subpoena, as necessary, to gather evidence for an investigation related to a maternal fatality

associated with pregnancy. Specifies child fatality review team meetings are closed to the public if a team is reviewing maternal fatality cases.

insurance; health care sharing ministries (S.B. 1122) – Chapter 184

SEE THE BANKING AND INSURANCE COMMITTEE.

technical correction; child care; licensing (NOW: scope of practice; nursing; abortion) (S.B. 1169) – Chapter 145

Establishes that the Arizona Board of Nursing (Board) does not have authority to decide scope of practice relating to abortion. In session law, asserts that the Board's authority to make scope of practice determinations is limited to the authority delegated by the Legislature, and where the Board's determination is inconsistent with the Legislature's authority to set policy, the Board's determination is void. States that any Board rule, advisory opinion or other action relating to abortion and the scope of practice of licensed nurses is rescinded and invalid.

homeopaths; categories of licensure (NOW: categories of licensure; homeopaths) (S.B. 1175) – Chapter 186

Establishes a new licensure category in the homeopathic medical profession of *doctor of homeopathy (DH)*. Requires applicants for DH licensure to graduate from an approved school of medicine and meet other specified application criteria. Requires the Board of Homeopathic and Integrated Medicine Examiners (Board) to regulate doctors of homeopathy (DHs) and applies the Board's current powers and duties to the regulation of DHs. Beginning January 1, 2015, modifies the composition of the Board by adding one membership position for a licensed DH.

Defines the *practice of homeopathic medicine* by a person who is licensed as a DH as the practice of medicine in which a person purports to diagnose, treat or correct human diseases, injuries, ailments, infirmities and deformities of a physical or mental origin by means of homeopathy or nutrition. In addition, the bill establishes acts of unprofessional conduct if committed specifically by a DH licensee.

Permits DH licensees to practice only within their authorized scope of practice. Deems acting outside of the authorized scope of practice as unprofessional conduct and authorizes the Board to seek injunctive relief. Specifies criminal penalties for practicing homeopathic medicine or using certain professional titles without a DH license. Confirms the professional titles a homeopathic licensee may use according to license type, and specifically allows a DH licensee to only use the title *doctor of homeopathy* or *homeopathic doctor*. Allows a person to practice traditional homeopathy without a license and use the title *homeopath*.

Applies current standards of practice regarding confidentiality of patient records to DH licensees. Permits homeopathic medical assistants to assist DH licensees. Allows a DH licensee to dispense drugs and devices, but limits the authority to dispensing homeopathic medications and nonprescription drugs, including nutritional supplements. Requires the DH licensee to include specified information on a medication's label or instruction sheet. Also requires a DH licensee to enter information about the dispensed substance and the therapeutic reason into the patient's medical record. Prohibits a DH licensee from dispensing controlled or prescription-only substances.

Exempts the Board from rulemaking requirements for one year after the effective date for the purposes of this legislation.

medical board; omnibus (S.B. 1176) – Chapter 227

Allows an allopathic physician to write prescriptions or issue prescription medications to a household member of a patient for an immunization that is listed in the Center for Disease Control and Prevention's recommended immunization schedule without first conducting a physical examination or establishing a doctor-patient relationship with the household member.

Modifies the information contained in a physician licensee's public profile, which appears on the Arizona Medical Board's website. Specifies that nondisciplinary orders or actions are available to the public but may not appear on the Board's website, unless the action is a practice limitation or restriction. Requires the Board to make corrections to the profile at any time upon request by the licensee.

Eliminates the requirement for organizations that operate confidential substance abuse treatment and rehabilitation programs or mental, behavioral and physical health evaluation and treatment programs to submit quarterly reports to the Board regarding each licensee's diagnosis, prognosis and recommendations for continuing care. Clarifies the protocols and procedures of confidential treatment programs apply to licensed physician assistants as well as to physicians.

behavior analysts; practice recognition; DHS (S.B. 1240) – Chapter 231

Allows applicants for behavior analyst licensure to earn supervised experience hours concurrently with coursework requirements, and specifies the total number of hours that require supervision. Permits university practicum or intensive university practicum hours to count toward an applicant's supervised experience hours. Requires supervision to occur once every two weeks, for five percent of the total number of supervised experience hours. Limits supervised experience to 30 hours per week, and allows an applicant to earn the total number of supervised experience hours in less than 12 months.

Stipulates a supervisor must be a licensed behavior analyst for only supervised experience hours that are obtained after January 1, 2011. Also allows the Board to continue to grant supervisor exemption requests after July 1, 2011, only if the applicant obtained the supervised hours in a state that did not license behavior analysts during the period in which the supervision was obtained.

Requires the Department of Health Services (DHS) to recognize a licensed behavior analyst as a behavioral health professional who is eligible for reimbursement of services. Requires DHS to adopt rules to include behavior analysts in the list of recognized behavioral health professionals. Exempts DHS from rulemaking requirements for one year after the effective date.

sexually violent persons; hearings (S.B. 1247) – Chapter 189

Requires the court to order an evaluation of a respondent who is petitioned to be a sexually violent person if the respondent has not requested a probable cause hearing within 10 days after service of the petition. Requires the court to select the person to conduct the evaluation from a list of competent professionals. Requires the county to pay the cost of the evaluation ordered by the court.

hospitals; dual licensure; elimination (S.B. 1248) – Chapter 43

Requires the Department of Health Services (DHS), by July 1, 2012, to revise agency rules to eliminate dual licensing requirements for hospitals that provide organized psychiatric services. Exempts DHS from rulemaking requirements for two years after the effective date for this purpose.

pharmacists; drug therapy protocols (S.B. 1298) – Chapter 103

Expands the scope of practice of licensed pharmacists. Allows a licensed pharmacist who is certified in immunization to: a) administer immunizations for influenza or in response to a declared public health emergency to children age six and older without a prescription order; b) administer other types of immunizations to children age six and older with a prescription order. A minor's parent or legal guardian must give consent before a pharmacist may administer an immunization. Specifies a patient's primary care provider is not liable in the event of an adverse reaction to the administration of an immunization by a pharmacist without a prescription. States the expansion of scope is intended to allow greater access to immunizations and to enhance collaboration between pharmacists and primary care providers.

Eliminates the limitations on practice settings for pharmacists who are working under a drug therapy protocol agreement with a primary care provider and specifies requirements for protocol implementation. Allows a pharmacist to enter a drug therapy protocol agreement with a nurse practitioner. Permits a pharmacy intern who is certified by the Arizona State Board of Pharmacy to administer immunizations under the direct supervision of a licensed pharmacist.

public health districts; voter approval (S.B. 1313) – Chapter 295

SEE THE FINANCE COMMITTEE.

podiatry board; omnibus (S.B. 1315) – Chapter 151

Requires health care institutions to report occurrences of the following to the state Board of Podiatry Examiners (Board): a) the denial, revocation, suspension or limitation of a podiatrist's practice privileges at the institution; and b) a podiatrist under investigation at the health care institution resigns or resigns in lieu of disciplinary action. The health care institution must also provide a general statement of the reasons for its actions or for the podiatrist's resignation. Requires the health care institution to additionally report changes to a podiatrist's practice privileges to other appropriate health care institutions in the state and to the Arizona Health Care Cost Containment System Administration.

Establishes the act of obtaining a fee by fraud, deceit or misrepresentation, or charging a fee for services not rendered as unprofessional conduct. Changes the term *informal interview* to *informal hearing*. Eliminates the Board's use of provisional licenses.

AHCCCS; missed appointments; provider remedy (S.B. 1357) – Chapter 234

Authorizes a physician or primary care practitioner (PCP) who provides acute care services to AHCCCS members to charge a \$25 fee to an AHCCCS member who misses an appointment without cancelling the appointment in advance, and permits the physician or PCP to prohibit the AHCCCS member from rescheduling the appointment until the fee is paid.

Allows the AHCCCS Administration to authorize political subdivisions, subject to approval by the Centers for Medicare and Medicaid Services (CMS), to provide funds to qualify for federal matching monies in order to provide health care coverage for persons who would be eligible for AHCCCS coverage under Proposition 204. Allows a political subdivision to limit the health care coverage provided. Stipulates health care coverage may only be offered through providers or health plans that are designated by the political subdivision. Repeals authority for political subdivisions to provide matching monies on October 1, 2013.

homeopathic physicians; use of title (S.B. 1382) – Chapter 235

Permits a person who is not licensed by the Arizona Board of Homeopathic and Integrated Medicine Examiners to use the designation of *homeopath*. Eliminates the class 2 misdemeanor penalty for using the designation of *homeopath* without a license.

health care actions; liability; students (S.B. 1429) – Chapter 192

States that a student who is enrolled in a health professional education or training program is not liable in a medical malpractice action for injury that occurs during or as a result of health care that is provided while the student is in the program and under the supervision of a licensed health care provider, unless gross negligence is established by clear and convincing evidence. Also establishes the student does not owe an independent duty of care to a patient while participating in patient care under the supervision of a licensed provider. Specifies the student's education or training program must be of a certified, accredited or state approved postsecondary institution that prepares students for licensing as a health care provider. Affirms that the legislation does not eliminate any responsibility of the supervising licensed health care provider for the student's actions.

dependent children; hearings; notice (S.B. 1560) – Chapter 253

SEE THE PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE.

nursing board; membership (S.B. 1583) – Chapter 242 E

SEE THE APPROPRIATIONS COMMITTEE.

~~health; 2011-2012; budget reconciliation~~ (NOW: budget reconciliation; health; 2011-2012) (S.B. 1619) – Chapter 31

SEE THE APPROPRIATIONS COMMITTEE.

~~mandated health coverage report; legislators~~ (NOW: hospice care; restoration) (H.B. 2099) – Chapter 13

Requires AHCCCS health plans and program contractors to provide coverage of hospice care for AHCCCS members who are enrolled in acute care or long term care programs.

homemade food products; regulation; exception (H.B. 2103) – Chapter 84

Exempts baked and confectionary goods that are prepared in a private home for commercial purposes from the rules established by the Arizona Department of Health Services (DHS) relating to food safety. Specifies the baked and confectionary products may not be potentially hazardous, as

described in the Food Code published by the United States Food and Drug Administration and modified and incorporated by DHS rule. Requires the product to be packaged with a label that states the name and contact information of the maker, lists the product's ingredients and discloses that the product was prepared in a home. In addition, if the product is made in a facility for developmentally disabled individuals, the label must disclose that fact. Requires the label to be given to the final consumer of the product.

Requires DHS to establish an online registry of persons who are authorized to prepare the exempt baked and confectionary products. If a person wishes to prepare or supervise the preparation of exempt baked and confectionary products, the person must obtain a food handler's card or certificate if one is issued by the local county and register with the DHS online registry.

dental board; omnibus (H.B. 2155) – Chapter 86

Authorizes the Executive Director (Director) of the state Board of Dental Examiners (Board) to perform the following functions: a) issue and renew licenses, certificates and permits to qualified applicants; b) initiate an investigation based on evidence appearing to show unprofessional conduct, unsafe practice or unethical conduct; c) enter into a consent agreement, subject to Board approval, with a licensee, permit holder or business entity if there is evidence of unprofessional or unethical conduct; and d) enter into a stipulation agreement, subject to Board approval, with any person under the Board's jurisdiction for the treatment, rehabilitation and monitoring of chemical substance abuse or misuse. Treatment and rehabilitation programs that contract with the Board may report to the Board periodically, rather than quarterly.

Requires a licensee to include a written affidavit in a license renewal application that affirms the licensee complies with continuing education requirements. If the licensee has not completed continuing education requirements, the Board may grant an extension to the licensee upon timely request, based on criteria prescribed by Board rule. Stipulates that if an extension request is not granted, the license expires on August 30th. Continues to allow a person to apply to the Board for reinstatement of an expired license within the 24 month period after the license expires, but requires the person to pay only one penalty of \$100 for reinstatement of an expired license, rather than a penalty of \$100 per year for each year after the license's expiration. Also, permits a dentist licensee to fulfill continuing education requirements by attending a seminar, symposium or lecture through the use of audio-visual technology under certain circumstances.

Authorizes the Board to deny a dentist's application for license renewal, and requires the Board to suspend the renewal application if the dentist is under investigation by a dental board in another jurisdiction. Eliminates the requirement for a licensed dentist to submit a passport-sized photo in a license renewal application. Also allows the Board to deny a denturist's application for certification or certification renewal.

Requires every complete upper or lower denture that is fabricated by a licensed dentist or pursuant to the dentist's work order to be marked with the patient's name, unless the patient objects. Specifies requirements about the appearance, location and application of the marking on the denture. Requires the dentist to inform the patient the marking is used only to identify the patient. Requires the dentist to retain records of marked dentures, and prohibits the disclosure of the records except to law enforcement officers in an emergency that requires personal identification by means of dental records or to a person authorized by the patient.

~~DHS; stroke care protocols~~ (NOW: stroke care; DHS) (H.B. 2157) – Chapter 47

Requires the Department of Health Services (DHS) to adopt rules by January 1, 2014, that coordinate stroke care protocols between hospitals and emergency medical service providers in Arizona. The rules must: a) direct the Arizona Emergency Medical Services Council to establish protocols in the state's four local emergency medical services coordinating regions relating to assessment, treatment and transport of stroke patients to the most appropriate facility; b) use national standards that are developed with stakeholder input for hospital-based and rehabilitative stroke care; and c) use statewide stroke quality improvement databases that compile information consistent with stroke consensus metrics. Requires the protocols and standards to be consistent with those that are established by national organizations that focus on heart disease and stroke care and prevention. Exempts DHS from rulemaking requirements for two years after the effective date for the purpose of developing the rules.

dental board; fees (H.B. 2169) – Chapter 87

Requires the state Board of Dental Examiners (Board) to review and establish, at least once every three years, the amount of the licensure renewal fee for dentists, dental hygienists and denturists. Specifies the review must occur in a public meeting and directs the Board to establish the licensure renewal fee by a formal vote. Rather than requiring licensees to pay exact license renewal fee amounts, prohibits the renewal fees from exceeding the amounts that are currently prescribed in statute. Specifies any change in the renewal fee amount applies prospectively to a licensee at the time of licensure renewal for the subsequent three fiscal years.

physical therapy; licenses; certificates; status (H.B. 2194) – Chapter 138

Requires the Board of Physical Therapy (Board) to place a physical therapist license or a physical therapist assistant certificate on retired or inactive status when certain requirements are met. Specifies requirements for license or certificate renewal or reinstatement to active status. Prohibits a licensee or certificate holder from engaging in active practice during the period of retired or inactive status. Requires a retired physical therapist or physical therapist assistant to use the professional titles *PT (Retired)*, *PT (Ret.)*, *PTA (Retired)* or *PTA (Ret.)* to denote the retired status.

~~technical correction; early voting~~ (NOW: inpatient evaluation or treatment) (H.B. 2211) – Chapter 257

Authorizes a guardian or agent to apply for admission of a ward or principal at any Level I behavioral health facility (facility) for evaluation or treatment based on reasonable cause. Specifies the guardian or agent must already hold, pursuant to court order, the authority to admit or consent to inpatient mental health care or treatment on the ward or principal's behalf.

The guardian or agent must present the facility with a certified copy, or photocopy of a certified copy, of the guardian's letters of guardianship or the agent's mental health power of attorney. The guardian or agent must also present or execute a sworn statement under penalty of perjury that the documents have been presented and they are currently effective and valid.

Authorizes a facility to admit the ward or principal if a licensed physician conducts a thorough pre-admission screening consisting of specified factors. Eliminates the requirement for the physician to be a specialist in psychiatry, and eliminates the ability for a licensed psychologist to conduct the pre-admission screening. Authorizes the facility to rely on the consent of the guardian or

agent for treatment, release and discharge decisions if, after admission, the ward or principal refuses treatment or requests discharge and the treating physician believes further inpatient treatment is necessary. Reduces the time in which a guardian must transfer a ward from inpatient treatment to a less restrictive treatment alternative, from ten days to five days, when the facility's medical director determines inpatient care is no longer needed.

mobile dental facilities (H.B. 2233) – Chapter 48

Requires, beginning January 1, 2012, persons or entities that operate mobile dental facilities (facilities) or portable dental units (units) to obtain a permit from the state Board of Dental Examiners (Board), with certain exceptions. Establishes permitting requirements and outlines standards of operation and practice for facilities and units. Requires a provider who treats a patient in a facility or unit to obtain informed consent from the patient or the patient's parent or legal guardian. Requires the provider to maintain patient records and to communicate options for follow-up care and treatment. Authorizes the Board to administer disciplinary action against a permittee that does not comply with Board rules or statutes. Requires a permittee to notify the Board within 30 days before a facility or unit ceases to operate and to notify patients of the disposition of patient records.

abortion; public funding prohibition; taxes (H.B. 2384/S.B. 1265) – Chapter 55

Notwithstanding any other law, prohibits the expenditure or allocation of the following public funds for training to perform abortions: a) public or tax monies of the state or a political subdivision of the state; b) federal funds passing through the state treasury or the treasury of a political subdivision of the state; or c) monies paid by students for tuition or fees to a state university or community college.

Effective January 1, 2012, excludes any entity from the definition of *qualifying charitable organization* that: a) provides, pays for, promotes, provides coverage of or referrals for abortions; or b) financially supports any other entity that does any of these things. An entity must submit a statement to the Department of Revenue and certify the entity meets the requirement.

abortion (H.B. 2416/S.B. 1246) – Chapter 10

Requires, rather than allows, the court to appoint a guardian ad litem for a pregnant minor in a judicial bypass hearing. Prohibits a health care provider from using telemedicine to provide an abortion. Specifies a health care provider who knowingly uses telemedicine to provide an abortion commits an act of unprofessional conduct and is subject to license suspension or revocation.

Establishes additional requirements for obtaining the voluntary and informed consent of a woman who is seeking an abortion, except in the case of a medical emergency. Specifically, requires the physician who is to perform the abortion, the referring physician or a qualified person who works in conjunction with either physician to perform and complete specified actions at least one hour before any part of an abortion is performed or induced and before the administration on the woman of any anesthesia or medication in preparation for the abortion. Additionally specifies that voluntary and informed consent includes a requirement for a woman to certify in writing before the abortion that she has been given the opportunity to view the active ultrasound image and hear the heartbeat, and she opted to view or not view the active ultrasound image and hear or not hear the unborn child's heartbeat.

Establishes that a physician who knowingly violates the voluntary and informed consent requirements commits an act of unprofessional conduct and is subject to license suspension or revocation. Permits certain persons to file a civil action in superior court to obtain appropriate relief for a violation within six years after the violation occurred. Specifies the basis for a civil action. Specifies the types of damages and fees that relief may include.

Establishes the definition of *abortion clinic* as a facility, other than a hospital regardless of the hospital's accreditation status, in which five or more first trimester abortions in any month or any second or third trimester abortions are performed. Broadens the definition of *abortion* in reference to an abortion clinic as the use of any means, rather than the use of a surgical instrument or machine, with the intent to terminate a woman's pregnancy. Specifies that performance of abortion includes the initial administration of any medication, drug or other substance intended to cause or induce an abortion.

abortion; sex; race selection; prohibition (H.B. 2443) – Chapter 9

Establishes as a class 3 felony the act of knowingly performing, coercing or financing a sex-selection or race-selection abortion. Authorizes the Attorney General or a county attorney to bring an action in superior court to enjoin the activity of performing, coercing or financing a sex-selection or race-selection abortion. Permits specified parties to bring a civil action to obtain appropriate relief for performing, coercing or financing a sex-selection or race-selection abortion. Establishes a civil penalty of up to \$10,000 for certain healthcare professionals who fail to report known violations. Exempts a woman on whom a sex-selection or race-selection abortion is performed from criminal prosecution or civil liability. Requires a physician who performs an abortion to sign an affidavit stating: a) the physician is not aborting the child because of the child's sex or race; and b) the physician has no knowledge the child is being aborted because of the child's sex or race. Contains a severability clause.

professional boards; actions; public access (H.B. 2520) – Chapter 118

SEE THE COMMERCE AND ENERGY COMMITTEE.

board of dental examiners (H.B. 2530) – Chapter 267

Specifies the *practice of dentistry* is for any disease, pain, deformity, deficiency, injury or physical condition of the human tooth or teeth, alveolar process, gums, lips, cheek, jaws, oral cavity and associated tissues, and includes the removal of stains, discolorations and concretions.

Establishes as unprofessional conduct the act of dividing a professional fee or receiving consideration ("kickbacks") for patient referrals among or between dental providers who are not engaged in a bona fide employment, partnership, corporate or contractual relationship for the delivery of professional services.

Prohibits a person from owning a majority interest in a dental business entity in this state if the person has surrendered or had revoked a dentistry or dental hygiene license in another state or jurisdiction in the United States. Requires a person to divest themselves of any applicable majority ownership interest within one year after the surrender or revocation of the license.

~~technical correction; wage board; powers~~ (NOW: employee drug testing; medical marijuana) (H.B. 2541) – Chapter 336 RFEIR

SEE THE COMMERCE AND ENERGY COMMITTEE.

medical helicopters; nontrauma patients; guidelines (H.B. 2548) – Chapter 174

Requires the Director of the Department of Health Services (DHS), in consultation with the Medical Direction Commission and the Emergency Medical Services Council, to develop guidelines by January 1, 2013, on the appropriate use of medical helicopters for non-trauma patients. Requires DHS to distribute the guidelines to all emergency receiving facilities in the state.

dental board; investigations; disciplinary action (H.B. 2554) – Chapter 175

Modifies statutes pertaining to the investigations processes of the state Board of Dental Examiners (Board). Eliminates the informal interview, and rather allows a complaint to be referred directly to a Board-appointed investigator. Authorizes the Board's Executive Director, if delegated by the Board, to initiate an investigation based on evidence that appears to show cause for disciplinary action. If the results of an investigation do not warrant disciplinary action, authorizes the Board to take nondisciplinary actions.

Authorizes the Board to charge the cost of a formal administrative hearing to a licensee, if the licensee is found to be in violation of Board statutes. Allows the Board to accept the surrender of an active license by a licensee for specified reasons. Authorizes the Board to consider previous disciplinary and nondisciplinary action when determining disciplinary action. Removes the Board's ability to use mediation in certain types of cases.

controlled substances; marijuana; monitoring (H.B. 2585) – Chapter 94 RFEIR

SEE THE JUDICIARY COMMITTEE.

medical records; disclosure; release (H.B. 2620) – Chapter 268

Health Information Organizations – Defines a *health information organization* (HIO) as an organization that oversees and governs the exchange of individually identifiable health information among organizations according to nationally recognized standards. Requires an HIO to provide certain rights to individuals, including the right to opt out of participating in the HIO. Specifies the necessary procedures for opting out, and allows an individual to change the decision to opt out at any time. If a patient opts out of the HIO, requires the patient's personal health information to be inaccessible through the HIO within 30 days.

Requires an HIO to maintain a written notice of health information practices that includes descriptions of specified information. Requires the HIO to post the notice on its website and provide a copy of the notice to an individual upon request. Requires health care providers who participate in the HIO to provide the notice to patients before or at the first patient encounter, and to redistribute the notice if there is a material change.

Allows an HIO to disclose an individual's individually identifiable health information only if:
a) the individual has not opted out; b) the type of disclosure is explained in the HIO's notice; and c) the disclosure complies with the Health Insurance Portability and Accountability Act (HIPAA).

Prohibits an HIO from selling or making commercial use of individually identifiable health information without the individual's written consent. Also prohibits an HIO from transferring individually identifiable health information or deidentified health information for the purpose of research or including the information in applications for research funding, unless the health care provider obtains the individual's consent for the transfer. Requires the provider to document the consent in the form of a signature by the patient.

Requires an HIO to implement and enforce certain policies, including required employee training, that govern the privacy and security of individually identifiable health information and compliance with applicable statutes. Requires an HIO to have the technology capability to implement individual preferences for sharing or segregating individually identifiable health information within three years after the effective date. Once the technology capability is achieved, the health care provider must notify patients of the change.

Specifies individually identifiable health information maintained by an HIO is not subject to a subpoena that is directed to the HIO unless certain requirements are met. Asserts a health care provider who participates in an HIO is responsible for maintaining the provider's own medical records. States that participation in an HIO does not impact the content, use or disclosure of medical records that are held in locations other than the HIO. Specifies the legislation does not limit, change or otherwise affect a health care provider's right or duty to lawfully exchange medical records.

Clinical Laboratories – Allows a clinical laboratory to disclose laboratory results to designated persons or entities, or as otherwise permitted by state or federal law, without the written authorization of the patient or the patient's health care decision maker. Permits the disclosure of clinical laboratory results to the certain persons or entities. Provides immunity to a clinical laboratory that discloses laboratory results, or the information contained in laboratory results, in good faith. Establishes a rebuttable presumption the clinical laboratory acted in good faith.

Disclosure of Confidential Records – Permits the disclosure of mental health records or communicable disease related information to a person or entity that provides services to the patient's health care provider and that has a business associate agreement to protect the confidentiality of patient information.

Specifies mental health records may only be disclosed to a third party payor or the payor's contractor as permitted by HIPAA. Specifies a health care provider that discloses mental health records as permitted by law is not liable for civil damages and is presumed to have acted in good faith. Establishes a rebuttable presumption the provider acted in good faith.

Computer Tampering – Establishes *computer tampering* as the act of knowingly obtaining confidential information by accessing a computer system or network that is operated by any of the following: a) a health care provider; b) a clinical laboratory; or c) a person or entity that provides services on behalf of a health care provider or a clinical laboratory. Classifies a violation of computer tampering of this type as a Class 6 felony.

Arizona State Immunization Information System – Expands the authority of the Department of Health Services (DHS) to disclose identifying information from the Arizona State Immunization Information System (ASIIS) by allowing DHS to release identifying information to certain persons or entities. Specifies a *health care provider* may be a licensed health care professional who maintains medical records, a health care institution, an ambulance service or a health care services organization

licensed in Arizona. Allows persons or entities to further disclose confidential ASIIS identifying information only as permitted by law or DHS rules.

DHS; health care institutions; rules (H.B. 2634) – Chapter 96

Requires the Department of Health Services (DHS) to adopt rules by July 1, 2013, for health care institutions that: a) reduce monetary or regulatory costs and streamline the regulation process; b) promote the use of deemed status for behavioral health organizations that are nationally accredited; and c) facilitate licensure of integrated health programs that provide both behavioral and physical health services and accommodate advances in behavioral health clinical treatments. Exempts DHS from rulemaking requirements until July 1, 2013, for this purpose. Stipulates DHS shall provide public notice and an opportunity for public comment on proposed rules at least 30 days before a rule is adopted or amended.

court-ordered evaluation (H.B. 2635) – Chapter 219 E

An emergency measure, effective April 25, 2011, that modifies the requirements relating to a physical examination that is conducted pursuant to a court-ordered evaluation. Eliminates the requirement for two evaluating physicians to personally conduct the physical examination, and allows another licensed physician (or person under that physician's supervision) or a licensed nurse practitioner to perform the complete physical examination in a location that may be different than the location where the overall psychiatric evaluation is conducted. Requires the evaluating physician to review or augment the results of the physical examination. Describes the examination as *professional* and *multidisciplinary* and requires the examination to be consistent with existing standards of care. Permits the examination to include observations that are made firsthand or remotely by interactive audiovisual media.

Requires the affidavits that accompany a petition for court-ordered treatment to include the results of the physical examination, if relevant to the evaluation. The affidavits may describe the evaluating physician's assessments based on observations, rather than examination, of the patient. If the examination is conducted remotely by another practitioner, the two evaluating physicians may testify in court about their observations of the patient based on the examination results. Eliminates the requirement to conduct a physical examination in conjunction with the annual review of a patient who is found to be gravely disabled or persistently or acutely disabled.

LEGISLATION VETOED

health care compact; funding (S.B. 1592) – VETOED

Authorizes and directs the Governor to enter into a health care compact (Compact) on behalf of Arizona with any other state that is lawfully joined in the Compact. Makes findings, declares policies and establishes definitions pertaining to the Compact. Pledges member states shall take action to secure the consent of the United States Congress to the Compact in order to return regulatory authority of health care to the member states, and asserts the legislatures of the member states have primary responsibility for regulating health care in their respective states. Authorizes the member states to suspend the operation of all federal laws, rules, regulations and orders regarding health care that are inconsistent with laws and rules adopted by the member state. Specifies member states are responsible for funding obligations associated with any federal law, rule, regulation or order that remains in effect in the member state after the Compact's effective date. Asserts member

states have a right to a certain amount of federal monies each fiscal year, based on the member state's current year funding level established by Congress. Establishes the Interstate Advisory Health Care Commission (Commission) and outlines the Commission's membership, requirements for voting and taking action, and jurisdiction. For the Compact to become effective, requires adoption by at least two member states and Congressional consent. Specifies procedures for amending, withdrawing from and dissolving the Compact.

The Governor's veto message states S.B. 1592 violates the separation of powers requirement of the Arizona Constitution by directing the Governor to enter a health care compact. The message also expresses concern over the structure of the Compact, stating it would result in additional fiscal challenges for the health care system. The Governor cites her work with Secretary Sebelius to allow Arizona greater flexibility and control over the state-federal Medicaid partnership, and indicates she wants to ensure citizens, especially seniors, are not penalized as a result of the state assuming control.

health insurance; interstate purchase (S.B. 1593) – VETOED

SEE THE BANKING AND INSURANCE COMMITTEE.

board of supervisors; powers (H.B. 2067) – VETOED

SEE THE JUDICIARY COMMITTEE.

FIRST SPECIAL SESSION

LEGISLATION ENACTED

AHCCCS; waiver request (S.B. 1001) – Chapter 1 E (First Special Session)

SEE THE APPROPRIATIONS COMMITTEE.